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8 Counsel for Secured Creditor,
9 **GANG “PATRICK” CHEN**

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

MICHAEL HAROUTUN MIROYAN,

Debtor.

Case No. 18-52601-MEH-13

Chapter 13

RS No. RF-1

***EX PARTE* MOTION TO REOPEN
BANKRUPTCY CASE AND SET HEARING
ON MOTION FOR RELIEF FROM STAY**

COMES NOW Gang “Patrick” Chen, Secured Creditor herein, moving for entry of an order reopening the within bankruptcy case and setting a hearing on the Motion for Relief from the Automatic Stay filed by Mr. Chen on June 13, 2019 (RS No. RF-1) (Docket No. 90) (the “Motion for Relief from Stay”), pursuant to Bankruptcy Code §§ 105(a), 350(b) and 362(d)(1), (2) and (4) and Rule 5010 of the Federal Rules of Bankruptcy Procedure, and respectfully represents as follows:

FACTS

1. Michael Haroutun Miroyan, Debtor herein, is the sole member of Hawaiian Riverbend, LLC, a Hawaii limited liability company (“Hawaiian Riverbend”).

2. On August 9, 2018, the Debtor caused Hawaiian Riverbend to transfer to himself the company’s chief asset, being certain real property including the property located at 62-2280 Kanehoa Street in Kamuela, Hawaii (the “Collateral”). See Exhibit “E” to the Motion for Relief from Stay (Docket No. 90-3).

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1 3. The within case was commenced by Michael Haroutun Miroyan, Debtor herein, filing
2 a voluntary petition for relief under chapter 13 of the Bankruptcy Code on November 26, 2018.
3 Devin Durham-Burk was the duly qualified and appointed Chapter 13 Trustee.

4 4. Secured Creditor Chen filed his Motion for Relief from Stay with respect to the
5 Collateral on June 13, 2019, and set it for hearing on July 19, 2019. The Motion requests *in rem*
6 relief pursuant to Bankruptcy Code § 362(d)(4), among other relief.

7 5. Prior to the hearing, the within case was dismissed pursuant to the Court's Order of
8 Dismissal entered on June 25, 2019 (Docket No. 93). Accordingly, the Motion for Relief from Stay
9 went off calendar.

10 6. Lately, on April 11, 2022, the Debtor filed his Motion for Violating the Automatic
11 Stay (Docket No. 104). The Debtor filed a Notice (Docket No. 106), but he did not set a hearing.

12 7. The Debtor is a serial bankruptcy filer. The Debtor has filed at least two cases with
13 this Court in his own name (this case and Case No. 19-52547-SLJ-13), both of which were
14 involuntarily dismissed, and a third case as *In re Hawaiian Riverbend, LLC*, Case No. 22-50314-
15 SLJ-11, all without filing the notice of related cases required under Bankruptcy Local Rule 1015-1.

16 8. The Debtor is a vexatious litigant. For example, on June 21, 2019, the Debtor
17 brought an action in the U.S. District Court for the Northern District of California against Judge
18 Robert Kim, in bad faith, for making adverse rulings in certain litigation pending in Hawaii (Case
19 No. 19-03626-NC). A copy of the underlying complaint is attached as Exhibit "5" to the letter that
20 the Debtor filed in the within case as Docket No. 105), along with improper and threatening

21 **June 24 , 2019**

22 **Dear Judge Kim**

23 **you're being sued by Michael Miroyan. Enclosed**
24 **herewith is the lawsuit and The summons will follow in**
25 **the next email . I would appreciate you accepting**
26 **service...But it doesn't matter the attorney general for the**
27 **state of Hawaii has already received these**
28 **documents....And there are protocols in place for you to**
accept service via US mail.

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1 correspondence to the judge, as follows:

2 **And Because of the filing of this adversarial complaint**
3 **against you for your illegal acts, civil rights violations and**
4 **fraud , Just to name a few, and because it is an ongoing**
5 **litigation it would be wholly inappropriate for you to lash**
6 **out and do me anymore damage from your bench as you**
7 **have no right to rule in this case any longer.**

8 **The good Lord and His angels know what damage you**
9 **have done and so do IIt is 3:21 PM Hawaii standard**
10 **time on June 24 and you cannot make any ruling on this**
11 **matter until after 4:00 PM and you've been notified that**
12 **you're being sued by me so any ruling that you do**
13 **detrimental to me , will be void and will be reviewed by**
14 **somebody else....as if you haven't done enough damage**
15 **already by ignoring Actual and factual sales data when is**

16 **That which you stole ...was not yours; nor did you earn it.**
17 **Its going to have to be returned hopefully otherwise there**
18 **is no justice whatsoever in Hawaii and that will be plain**
19 **for all to see.**

20 **Michael Miroyan**

21 The action was dismissed with prejudice by order entered on November 5, 2019, a copy of which is
22 attached hereto as Exhibit "A" and is incorporated herein by reference.

23 9. In light of the foregoing, it is highly likely that the Debtor will continue to abuse the
24 courts and harass the parties unless broader relief is ordered. Accordingly, Secured Creditor Chen
25 proposes to proceed with his Motion for Relief from Stay, which requests *in rem* relief. Mr. Chen is
26 also considering bring a motion to deem the Debtor to be a vexatious litigants pursuant to 28 U.S.C.
27 § 1651(a), Bankruptcy Code § 105(a) and the Court's inherent power.

28 **AUTHORITY**

This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157.
Bankruptcy Code § 350(b) provides that: "A case may be reopened in the court in which such case
was closed to administer assets, to accord relief to the debtor, or for other cause." Rule 5010 of the

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1 Federal Rules of Bankruptcy Procedure provides that:

2 A case may be reopened on motion of the debtor or other party in interest pursuant to
3 §350(b) of the Code. In a chapter 7, 12, or 13 case a trustee shall not be appointed by the
4 United States trustee unless the court determines that a trustee is necessary to protect the
interests of creditors and the debtor or to insure efficient administration of the case.

5 Bankruptcy Code § 105(a) provides that: “The court may issue any order, process, or judgment that
6 is necessary or appropriate to carry out the provisions of” the Bankruptcy Code. In addition, the
7 Court has the inherent power to manage its own docket.

8 **PRAYER FOR RELIEF**

9 **WHEREFORE**, Secured Creditor Chen prays for entry of an order:

- 10 1. Reopening the within bankruptcy case;
- 11 2. Setting a hearing on the Motion for Relief from Stay for June 15, 2022, at 2:30 pm, or
12 at the Court’s convenience;
- 13 3. Providing that any supplemental briefs, declarations and evidence in support of the
14 Motion shall be filed at least fourteen (14) calendar days prior to the hearing;
- 15 4. Providing that Secured Creditor Chen shall give notice of the hearing at least fourteen
16 (14) calendar days prior to the hearing; and
- 17 5. For such other and further relief as is appropriate in the premises.

18 DATED: May 18, 2022

/s/ Reno F.R. Fernandez III
Reno F.R. Fernandez III
Attorney for Secured Creditor,
Gang “Patrick” Chen